

ORDINANCE NO. 09-38

ORDINANCE GRANTING A
CONDITIONAL USE PERMIT (CUP) TO
ALLOW THE EXPANSION OF AN
EXISTING SCHOOL PURSUANT TO
HIALEAH CODE § 98-181(2)i.
**PROPERTY LOCATED AT 3580 WEST
84 STREET, HIALEAH, FLORIDA.**
REPEALING ALL ORDINANCES OR
PARTS OF ORDINANCES IN CONFLICT
HEREWITH; PROVIDING PENALTIES
FOR VIOLATION HEREOF; PROVIDING
FOR A SEVERABILITY CLAUSE; AND
PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Hialeah, Florida at its regular meeting of April 14, 2009 directed the Law Department to provide this ordinance overriding the Planning and Zoning Board's recommendation of denial at its meeting of February 25, 2009; and

WHEREAS, the applicant proffers a declaration of restrictive covenants that provides that the maximum student population on the property will be no more than 800 students, that the school will provide traffic control personnel to direct traffic, including ingress and egress to the site, during peak traffic hours; that the existing garage will not be converted to habitable space and that the applicant will further provide and pay for any signalization that the County or Florida Department of Transportation may require, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The below-described property is hereby granted a Conditional Use Permit (CUP) to allow the expansion of an existing school pursuant to Hialeah Code § 98-181(2)i, which provides in pertinent part: "There shall be created and established a conditional use permit to be known as CUP conditional use permit . . . The following

uses would require a conditional use permit . . . Private schools, charter schools, vocational and technical schools, and post-secondary education facilities, colleges and universities.” Property located at 3580 West 84 Street, Hialeah, Miami-Dade County, Florida, zoned M-1 (Industrial District), and legally described as follows:

TRACT A, BERNIE INDUSTRIAL, ACCORDING TO
THE PLAT THEREOF, AS RECORDED IN PLAT BOOK
158, PAGE 2, OF THE PUBLIC RECORDS OF MIAMI-
DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.


Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 12th day of May, 2009.

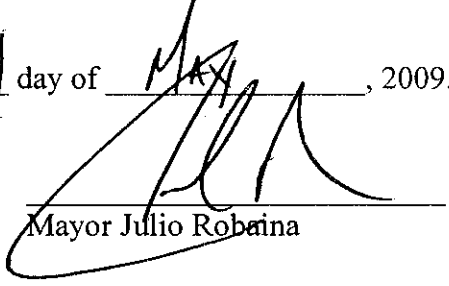
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING

Attest:

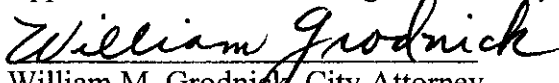

Rafael E. Granado, City Clerk


Carlos Hernandez
Council President

Approved on this 14 day of May, 2009.


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

This is corrected
Ordinance 09-38. A
scrivener's error was
reported at the City
Council meeting of
June 9, 2009.

S:\WMG\LEGISLAT\ORD\Ordinance 2009\3580west84streetoverride.docx

Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Gonzalez, Hernandez, Yedra voting "Yes" and Councilmember Garcia-Martinez absent.



CFN 2009R0376470
OR Bk 26876 Pg 45621 (2pg)
RECORDED 05/22/2009 15:30:19
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)**

(I) (WE), Aledrien Investment Corp., Alexis Tejada, President

Being the owner(s) of lands described herein:

Tract A. Bernie Industrial, according to the plat thereof, as recorded in Plat Book 158, at Page 2, of the Public Records of Miami-Dade County, Florida

The street property address is 3580 West 84 Street. Hialeah, Florida 33018-4931

The folio number is 04-2028-093-0010.

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The premises located at 3580 West 84 Street, Hialeah, Florida, proffers that the maximum student population on the property will be no more than 800 students, that the school will provide traffic control personnel to direct traffic, including ingress and egress to the site, during peak traffic hours; that the existing garage will not be converted to habitable space and that the applicant will further provide and pay for any signalization that the County or Florida Department of Transportation may require.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)

IN WITNESS WHEREOF, We have hereunto set out hands and seals at
3580 W 84 St. this 11th day of May, 2009
(location)

Attest: _____
Secretary: _____

Name of Corporation: Aledrien Investment Corp.

Typed/Printed Name
Signed, sealed and delivered in the
presence of: _____

By: _____
President: _____

Witness
Typed/Printed Name Ubaldo Interian

Alexis A. Tejeda
Typed/Printed Name

Witness
Typed/Printed Name RAUL MEDEROS

Corporate Seal

STATE
OF Florida
COUNTY
OF Miami Dade

The foregoing instrument was acknowledged before me on this 11th day of May, 2009
by Alexis A. Tejeda as President, and Alexis A. Tejeda as Secretary, of
(Name of Officer or Agent) (Name of Secretary)

Aledrien Investment Corp. corporation, a Florida corporation.
(Name of Corporation) (State or Place of Incorporation)

They are personally known to me or have produced the following DL # T 230-001-69-066-0
as identification and did (did not) take an oath and who attest to the truth and accuracy of the
representations contained herein.

This document was prepared by:

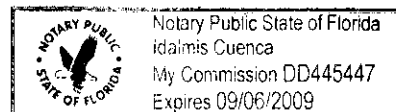
IDAIRIS CUENCA
Name

Idairis Cuenca
Signature of Notary Public

2325 West 52 St
Street

IDAIRIS CUENCA
Name of notary typed, printed, or stamped
Commission Number: DD445447

Hialeah, FL 33016
City State Zip Code



Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010



CFN 2009R0641431
OR Bk 27001 Pgs 2557 - 2558; (2pgs)
RECORDED 09/03/2009 13:46:08
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

**DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)**

(I) (WE), Aledrien Investment Corp., Alexis Tejeda, President

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Ord. 09-38

D. DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)

IN WITNESS WHEREOF, We have hereunto set out hands and seals at
3580 W 84 St. this 11th day of May, 2009
(location)

Attest: _____

Name of Corporation: Aledrien Investment Corp.

Secretary: _____

Typed/Printed Name

Signed, sealed and delivered in the
presence of _____

By: _____

President: _____

Typed/Printed Name

Witness

Typed/Printed Name Ubaldo Interian

Witness

Typed/Printed Name _____

STATE

OF

Florida

COUNTY

OF

Miami-Dade

Corporate Seal

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by Alexis A. Tejeda as President, and Alexis A. Tejeda as Secretary, of
(Name of Officer or Agent) (Name of Secretary)

Aledrien Investment Corp. corporation, a Florida corporation.
(Name of Corporation) (State or Place of Incorporation)

They are personally known to me or have produced the following DL# T230-001-69-066-0
as identification and did (did not) take an oath and who attest to the truth and accuracy of the
representations contained herein.

This document was prepared by:

IDAIRIS CUECA
Name

2325 West 52 St
Street

Shalena, FL 33016
City State Zip Code

Idalmis Cuenca
Signature of Notary Public

IDAIRIS CUECA
Name of notary typed, printed, or stamped
Commission Number: DD445447

